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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WALTER BETSCHART, JOSHUA
SHANE BARTLETT, CALEB AIONA,
TYRIK DAWKINS, JOSHUA JAMES-
RICHARDS, TANIELA KINI KINI
LATU, RICHARD OWENS, LEON
MICHAEL POLASKI, ALEX SARAT
XOTOY, TIMOTHY WILSON,
JEFFREY DAVIS, RICHARD
AARON CARROLL, SR., JENNIFER
LYN BRUNETTE, NICHOLAS
WALDBILLIG, DEREK PIMENO
ZAVALA, CURTIS RAY ANTHONY
REMINGTON, CRISTA JEAN
DAVIS, NICHOLE LYNN WHALEN,
and JACOB ISAAC NATHANIEL
COLE, *on their behalf, and on behalf of*
all others similarly situated,

Plaintiffs-Appellees,

v.

THE STATE OF OREGON,

Defendant-Appellant

SHERIFF PATRICK GARRETT,
Washington County Sheriff, in his
official capacity, and WASHINGTON
COUNTY CIRCUIT COURT
JUDGES, in their official capacities,

Defendants.

U.S.C.A. No. 3:23-cv-01097-CL
(LEAD CASE)

No. 23-2270

AMENDED NOTICE OF APPEAL

**PRELIMINARY INJUNCTION
APPEAL**

Notice is given that defendant State of Oregon hereby appeals to the United States Court of Appeals for the Ninth Circuit from the amended order for injunctive relief, entered on November 14, 2023, by the Honorable Michael McShane of the United States District Court for the District of Oregon.

Respectfully submitted,

ELLEN F. ROSENBLUM
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/s/ Ryan Kahn

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State of Oregon

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

WALTER BETSCHART, JOSHUA
SHANE BARTLETT, CALEB AIONA,
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TIMOTHY WILSON, JEFFREY DAVIS,
RICHARD AARON CARROLL, SR.,
JENNIFER LYN BRUNETTE, NICHOLAS
WALDBILLIG, DEREK PIMENO
ZAVALA, CURTIS RAY ANTHONY
REMINGTON, CRISTA JEAN DAVIS,
NICHOLE LYNN WHALEN, *and* JACOB
ISAAC NATHANIEL COLE, *on their*
behalf, and on behalf of all others similarly
situated,

Case No.: 3:23-cv-01097-CL
(LEAD CASE)

AMENDED ORDER FOR
INJUNCTIVE RELIEF

Plaintiffs,

vs.

SHERIFF PATRICK GARRETT,
Washington County Sheriff, in his official
capacity, and WASHINGTON COUNTY
CIRCUIT COURT JUDGES, *in their*
official capacities, and THE STATE OF
OREGON,

Defendants.

MCSHANE, J.:

This amended order goes into effect on November 23, 2023.

1. This amended order applies to the following “Custody Class” of individuals who are or will be:

(1) indigent and unable to afford an attorney, (2) facing criminal charges in Oregon, and (3) physically housed in a jail in Oregon.

2. If counsel is not secured within seven days of the initial court appearance for any member of the Custody Class, the sheriff of that county is ordered to release the class member from custody.
3. If counsel is secured within the seven-day period but subsequently withdraws due to a conflict within that period, new counsel must be secured within seven days of the withdrawal. If new counsel is not secured within the seven-day period following withdrawal, the sheriff of that county is ordered to release the class member.
4. This order does not apply to class members who fire their attorney.
5. As explained in the Court's opinion, this order does not impact the provisions of Article I, Section 43 of the Oregon Constitution. This order does not apply to crimes of murder and aggravated murder.
6. Released class members are subject to the conditions of release set forth in ORS § 135.250 and any other conditions that the Circuit Court may impose that are related to assuring the appearance of the class member and the safety of the community.
7. If the appellate courts or post-conviction-release courts remand an in-custody class member to the circuit court for a new trial, the seven-day period in which counsel must be appointed will begin at the class member's appearance in circuit court.
8. The Circuit Court shall ensure that a release agreement is presented to and executed by the class member at the time of their release. Failure of the class member to execute the release agreement will result in the continued detention of the class member. Failure of the class member to abide by the conditions of release set forth in the release agreement may result in the revocation of their release. If release is

revoked, the class member is not entitled to a new seven-day period for appointment of counsel. The Circuit Court retains its statutory authority to impose release conditions on pre-trial class members and to enforce compliance with those conditions.

IT IS SO ORDERED.

Dated this 14th day of November, 2023.

/s/ Michael McShane
Michael McShane
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2023, I directed the Amended Notice of Appeal to be electronically filed with the Clerk of the Court for the United States District Court for the District of Oregon by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

/s/ Ryan Kahn

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